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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,681	10/24/2001	Mark E. Toth	20404/301	8295

7590 02/09/2005

Oppenheimer Wolff & Donnelly LLP  
Suite 3300  
45 South Seventh Street  
Minneapolis, MN 55402-1609

EXAMINER
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SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/037,681

Applicant(s)

TOTH, MARK E.

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This communication is in response to the Applicant's Amendment filed November 23, 2004. Claims 1-20 are pending in this case.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 6,839,683) "Walker 1" in view of Walker et al (US 6,634,550) "Walker 2".

5. Regarding claim 1 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer-centric communication system, comprising: a code segment that provides a user interface that allows a customer to order merchandise; a code segment that provides a virtual server as part of the user interface, for assisting the customer with the user interface without human intervention; a code segment that provides bill payment functionality to allow the customer to pay for the merchandise with cash, a check, credit card, or a gift certificate. (e.g. col 3 ln 40 – col 4 ln 30).

6. Walker 2 discloses a code segment that provides entertainment services to occupy the attention of a customer (e.g. col 1 ln 65 – col 2 ln 50).

7. Regarding claim 2 –

Walker 2 discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is movie information access (e.g. col 2 ln 20-40).

8. Regarding claim 3 –

Walker 2 discloses a computer code embodied on a computer readable medium wherein the entertainment service is a game (e.g. col 2 ln 20-40).

9. Regarding claim 4 –

Walker 2 discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is Internet access for browsing websites (e.g. col 2 ln 20-40).

10. Regarding claim 5 –

Walker 2 discloses a computer code embodied on a computer readable medium for a communication system wherein the entertainment service is Internet access in which browsing is limited to a predetermined set of websites (e.g. col 2 ln 30-40).

11. Regarding claim 6 –

Walker 2 discloses a computer code embodied on a computer readable medium for a communication system further comprising a code segment that allows the customer to send Internet e-mail messages (e.g. col 2 ln 20-30).

12. Regarding claim 7 –

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Walker 1 discloses a computer code embodied on a computer readable medium for a communication system further comprising a code segment that allows the customer to send messages to a second customer also using the communication system (e.g. col 4 ln 20-30).

13. Regarding claim 8 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that provides a data mining analysis tool for analyzing transactions performed by the communication system (e.g. col 5 ln 5-20).

14. Regarding claim 9 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to purchase gift certificates (e.g. col 5 ln 40-55).

15. Regarding claim 10 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to place an order from a remote location via the Internet (e.g. col 4 ln 10-30).

16. Regarding claim 11 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that

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manages an incentive program to encourage the customer to order the merchandise (e.g. col 4 ln 5-30).

17. Regarding claim 12 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that provides integrated human resource capabilities (e.g. col 4 ln 35-50).

18. Regarding claim 13 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that performs voice recognition and voice synthesis to allow the customer to operate the communication system even if disabled (e.g. col 5 ln 25-50).

19. Regarding claim 14 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system wherein the virtual server is an animated figure that emulates human personality traits (e.g. col 6 ln 20-35).

20. Regarding claim 15 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, wherein the virtual server teaches the customer how to operate the communication system (e.g. col 6 ln 10-25).

21. Regarding claim 16 –

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Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, wherein the virtual server suggestively sells the merchandise to the customer (e.g. col 5 ln 20-35).

22. Regarding claim 17 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer centric communication system from claim 1, further comprising a code segment that allows the customer to make a reservation via the Internet (e.g. col 6 ln 20-35).

23. It would be obvious for person of ordinary skill in the art to combine the teachings of Walker 1 and Walker 2 in order to obtain a more efficient restaurant or a store is more economical to run and maintain.

24. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 6,839,683) “Walker 1” in view of Walker et al (US 6,634,550) “Walker 2”.

25. Regarding claim 18 –

Walker 1 discloses a computer code embodied on a computer readable medium for a customer-centric communication system, comprising: a code segment that provides a user interface that allows a customer to order merchandise; a code segment that provides a virtual server as part of the user interface, for assisting the customer with the user interface; a code segment that provides bill payment functionality to allow the customer to pay for the merchandise; and a code segment that provides entertainment services to occupy the attention of the customer via a computer code embodied on a

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computer readable medium, as in claim 1 for the choosing and purchasing of merchandise without human intervention (e.g. col 3 ln 40 – col 4 ln 30).

26. Walker 2 discloses a code segment that provides entertainment services to occupy the attention of a customer (e.g. col 4 ln 20-30).

27. Regarding claim 19 –

Walker 2 discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that allows the customer to send messages to a second customer also using the communication system (e.g. col 4 ln 20-30).

27. Regarding claim 20 –

Walker 2 discloses a computer code embodied on a computer readable medium for a customer centric communication system further comprising a code segment that manages an incentive program to encourage the customer to order the merchandise (e.g. col 4 ln 5-30).

28. It would be obvious for person of ordinary skill in the art to combine the teachings of Walker 1 and walker 2 in order to obtain a more efficient restaurant that is more economical to run and maintain.

29. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the



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responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

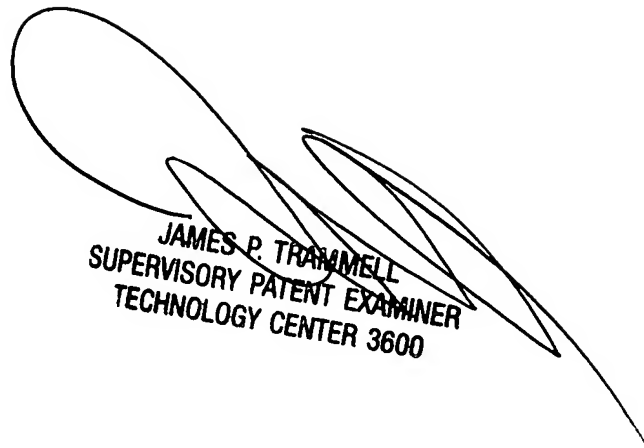
31. Battistini et al (US 5,907,275A) disclose an order communication system for restaurants.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600